

### **REMARKS**

Claims 1-14 are pending in the present application. Claim 5 has been canceled. Claims 1-4, 6, 8, and 13 have been amended. Support for the amendments to the claims can be found throughout the specification and claims as filed. Upon entry of the present amendments, claims 1-3 and 6-14 will be pending. No new matter has been added.

Amendment or cancellation of claims should in no way be construed as an acquiescence, narrowing, or surrender of any subject matter. Amendments or cancellations have been made not only to point out with particularity and to claim the present invention, but also to expedite prosecution of the present application. Applicants reserve the option to prosecute the originally filed claims further, or similar ones, in the instant or subsequently filed patent applications.

#### ***Rejection of Claims 1-3 and 6-14 Under 35 U.S.C. § 112, First Paragraph, Written Description***

Claims 1-3 and 6-14 stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to satisfy the written description requirement. Specifically, the Examiner is of the opinion that Applicants have “not provided objective evidence of to [sic] other variants encompassed by the claimed invention that meets the claimed B7-2 molecules employed in the claimed methods” (see page 4 of the pending Office Action).

Applicants respectfully traverse the rejection. However, in an effort solely to expedite prosecution and in no way conceding to the validity of the Examiner’s rejection, Applicants have amended claims 1-3 to recite nucleic acid molecules that encode a polypeptide comprising the amino acid sequence of SEQ ID NO:2 or SEQ ID NO:4. Applicants believe that the claim amendments obviate the Examiner’s rejection under 35 U.S.C. § 112, first paragraph, written description, and therefore respectfully request reconsideration and withdrawal of the rejection.

#### ***Rejection of Claims 1-3 and 6-14 Under 35 U.S.C. § 112, First Paragraph, Enablement***

Claims 1-3 and 6-14 also stand rejected under 35 U.S.C. § 112, first paragraph, as allegedly failing to satisfy the enablement requirement. Specifically, the Examiner contends that “the instant specification does not provide sufficient guidance that would steer the skilled artisan towards those ‘B7-2 molecules and fragments thereof, particularly as to those nucleic acid /

amino [acid] sequences with limited sequence or sequence homology responsible for retaining the ability to costimulate a T cell and the ability to bind a CD28 or CTLA4' that could be used to carry out the claimed methods" (see page 9 of the pending Office Action).

Applicants respectfully traverse the rejection. As set forth above, in order solely to expedite prosecution and in no way conceding to the validity of the Examiner's rejection, Applicants have amended claims 1-3 to recite nucleic acid molecules that encode a polypeptide comprising the amino acid sequence of SEQ ID NO:2 or SEQ ID NO:4. Applicants believe that claim amendments obviate the Examiner's rejection under 35 U.S.C. § 112, first paragraph, enablement, and therefore respectfully request reconsideration and withdrawal of the rejection.

### ***Obviousness-Type Double Patenting Rejections***

Claims 1-14 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-25 of U.S. Patent No. 6,723,705.

Applicants respectfully traverse the rejection. However, in an effort solely to expedite prosecution and in no way conceding to the validity of the rejection, Applicants respectfully submit a Terminal Disclaimer. Accordingly, reconsideration and withdrawal of the rejection is respectfully requested.

Claims 1-14 stand provisionally rejected under the judicially created doctrine of obviousness-type double patenting as allegedly being unpatentable over claims 1-12 of U.S. Patent No. 6,451,305. In addition, the Examiner indicates that claims 1-14 are directed to an invention allegedly not patentably distinct from claims 1-12 of commonly assigned U.S. Patent No. 6,451,305.

Applicants respectfully traverse the rejection. Claims 1-12 of U.S. Patent No. 6,451,305 are drawn to methods for stimulating a T cell response to a tumor cell in a subject with a tumor, comprising modifying the tumor cell to express LFA-3 and a CD28 or CTLA4 ligand wherein said CD28 or CTLA4 ligand is selected from the group consisting of B7-1, B7-2, and combinations thereof, such that stimulation of a T cell response to a tumor cell occurs. Applicants submit that the claims 1-14 of the instant application do not recite expression of LFA-

DFS-091.04  
U.S.S.N. 10/767,561

3 and are therefore patentably distinct over claims 1-14 of U.S. Patent No. 6,451,305.  
Accordingly, Applicants respectfully request reconsideration and withdrawal of the rejection.

### **CONCLUSION**

Applicants submit that the claims have been placed in condition for allowance. Early and favorable reconsideration is respectfully solicited. The Examiner may address any questions raised by this submission to the undersigned at (617) 832-1000. If any fees are due, the Commissioner is hereby authorized to credit any overpayment or charge any deficiencies to **Deposit Account No. 06-1448, Reference No. DFS-091.04.**

Respectfully submitted,  
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